

### **REMARKS**

Claims 2, 4, 9, 15-16 and 28, and newly added Claims 30-31, are pending herein. Claims 1, 3, 5-8, 10-14, 17-27 and 29 have been cancelled without prejudice or disclaimer.

1. Initially, the Applicant, Mary J. Eaton, thanks Examiners Gamett and Romeo, for extending courtesies to her and the undersigned attorney during a telephonic interview on April 23, 2008. The substance of the points discussed in the interview is provided below.

2. In the interview, Examiner Gamett confirmed that Claims 27-28 were not rejected over any prior art, and would therefore be allowable. Further, Examiner Gamett confirmed that method claims reciting the deposited clone would also not be rejected over prior art, and would therefore be allowable. In this regard, Examiner Gamett suggested incorporating the subject matter of Claim 10 into Claim 9.

With respect to the obviousness rejection over Freed (U.S. Patent 6,254,865), Younkin (U.S. Patent 5,449, 609), and Lee (U.S. Patent 5,175,103), it was pointed out to the Examiners that none of these references teach or suggest cloning GABA expressing human NT2 cells. The Examiners indicated reconsideration with a view towards allowance of the claims reciting this aspect. As noted below, none of the cited references teach or suggest a GABA expressing cell cloned from human NT2 cell line, or using such cloned cell in treating a neurological disease, condition or disorder of the

central or peripheral nervous system. Therefore, it is respectfully submitted that all pending Claims 2, 4, 9, 15-16, 28 and 30-31 are allowable.

3. Claims 13-16 were objected to for informalities. Claims 13-14 have been cancelled and Claims 15-16 have been amended to the elected subject matter. Therefore, it is respectfully requested that the objection of Claims 13-16 be withdrawn.

4. Claims 9-12 were rejected under 35 U.S.C. §112, first paragraph. Claim 9 has been amended to delete the phrase "a cell transplant material," and Claims 10-12 have been cancelled. Therefore, it is respectfully requested that the rejection of Claims 9-12 under 35 U.S.C. §112, first paragraph, be withdrawn.

5. Claims 27-28 were rejected under 35 U.S.C. §112, first paragraph. More specifically, the Examiner noted that there was no indication in the specification as to public availability of the biological material.

As noted in the Declaration by the inventor, already of record, a deposit of the cell lines hNT2.17 and hNT2.19 was made under the terms and conditions of the Budapest Treaty, and was accepted by the ATCC, as evidenced by a copy of a certificate of deposit, also of record. In this regard, the undersigned hereby notes that all restrictions upon public access to the deposits will be irrevocably removed upon the grant of a patent on this application and that the deposit will be replaced if viable samples cannot be dispensed by the depository. In view of the foregoing, it is respectfully submitted that the deposit is in full compliance with 37 CFR §1.806-1.808.

Therefore, it is respectfully requested that the rejection of Claims 27-28 under 35 U.S.C. §112, first paragraph, be withdrawn.

6. Claims 2, 9-14 and 29 were rejected under 35 U.S.C. §102(b) over Freed (U.S. Patent 6,254,865).

Claim 2 has been amended to include the allowable subject matter of Claim 27. Claim 9 has been amended to state that GABA expressing cells are cloned from a human NT2 cell line. The remaining Claims 10-14 and 29 in this group, have been cancelled. Therefore, it is respectfully submitted that Claims 2 and 9 are allowable. Accordingly, it is requested that the rejection of Claims 2, 9-14 and 29 under 35 U.S.C. §102(b) over Freed be withdrawn.

7. Claims 4, 15 and 16 were rejected under 35 U.S.C. §103(a) over Freed, Younkin (U.S. Patent 5,449,609) and Lee (U.S. Patent 5,175,103). It is noted that the Examiner admitted that Freed does not teach cloning of GABA expressing human NT2 cell lines as required by Claims 4, 15 and 16. However, the Examiner cited the '103 Lee patent to suggest cloning of GABA expressing human NT2 cells.

It is respectfully submitted that there is no teaching or suggestion in Lee for cloning of GABA expressing human NT2 cells. More specifically, the portions of Lee, cited by the Examiner, discuss retinoic acid treatment creating the NT2 cell line (Column 2, lines 28-54 of Lee '103), removing neurons (NT2) from the feeder layer enzymatically (Column 12, lines 48-57 of Lee '103), and transfection with the B-gal gene sequence and using subcloning to purify the transfected cells for increasing the

number of B-gal-containing cells (Column 14, lines 15-26 of Lee '103). None of these relate to cloning of GABA expressing hNT2 cells. Therefore, it is respectfully submitted that Lee does not supply the deficiencies of Freed or Younkin. Therefore, Claims 4, 15 and 16 are not obvious. Accordingly, it is respectfully requested that the rejection of Claims 4, 15 and 16 over these references be withdrawn.

### **CONCLUSION**

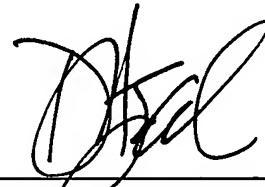
For the foregoing reasons, it is respectfully submitted that Claims 2, 4, 9, 15-16, 28 and 30-31 are in condition for allowance. Withdrawal of all the objections and rejections and allowance of these claims are earnestly solicited.

It is believed that no additional fee is due for this submission. Should that determination be incorrect, however, the Commissioner is hereby authorized to charge any deficiencies to our Deposit Account No. 01-0433, and notify the undersigned in due course.

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Should the Examiner have any questions or wish to discuss further this matter,  
please contact the undersigned at the telephone number provided below.

Respectfully submitted,



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